

EXHIBIT A

EXHIBIT A

1 **JAMES D. BOYLE** (Nevada Bar No. 08384)
2 **HOLLEY DRIGGS WALCH FINE WRAY PUZEY & THOMPSON**
3 400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
4 Telephone: 702-791-0308
Facsimile: 702-791-1912
jboyle@nevadafirm.com

5 **VALENTIN D GURVITS** (*pro hac vice* pending)
6 **MATTHEW SHAYEFAR** (*pro hac vice* pending)
BOSTON LAW GROUP, PC
825 Beacon Street, Suite 20
7 Newton Centre, Massachusetts 02459
Telephone: 617-928-1804
8 Facsimile: 617-928-1802
vgurvits@bostonlawgroup.com
9 matt@bostonlawgroup.com

10 **EVAN FRAY-WITZER** (*pro hac vice* pending)
CIAMPA FRAY-WITZER, LLP
20 Park Plaza, Suite 505
11 Boston, Massachusetts 02116
12 Telephone: 617-426-0000
Facsimile: 617-507-8043
13 evan@CFWLegal.com

14 Attorneys for Defendants

15 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

17 **AMA MULTIMEDIA, LLC**
a Nevada limited liability company,
18 Plaintiff,

19 v.
20 **BORJAN SOLUTIONS, S.L. d/b/a**
SERVIPORNO, a Spanish company; and
21 **BORJAN MERA URRESTARAZU,**
an individual,
22 Defendants.

Case No. 2:15-cv-01673-JCM-(GWF)

23
AFFIDAVIT OF BORJAN MERA
URRESTARAZU IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS

URRESTARAZU AFFIDAVIT SUPPORTING DEFENDANTS' MOTION TO DISMISS
CASE NO. 2:15-cv-01673-JCM-(GWF)

1
2 **AFFIDAVIT OF BORJAN MERA URRESTARAZU IN SUPPORT OF DEFENDANTS'**
3 **MOTION TO DISMISS**

4 I, Borjan Mera Urrestarazu, affirm and declare as follows:

5 1. My name is Borjan Mera Urrestarazu. I am over the age of 18. I am a resident of
6 Spain. I have personal knowledge of the facts stated herein.

7 2. I am a manager for Borjan Solutions, S.L. which operates serviporno.com
("BSSL").

8 3. On or about August 19, 2013, I entered into that certain Settlement Agreement
9 and Mutual Release (the "Settlement Agreement") with SSC Group, LLC d/b/a PornPros (which
10 I understand now does business as AMA Multimedia, LLC, "AMA"), BSSL and Monetia S.L.

11 4. Pursuant to the terms of the Settlement Agreement, promptly after entering into
12 the Settlement Agreement BSSL created the Porn Pros Removal Form that would allow AMA to
13 automatically remove files from BSSL's websites.

14 5. In the over two years since BSSL created the Porn Pros Removal Form, AMA has
15 never once submitted a single URL for removal with that specialized tool.

16 6. During that same time period, AMA or its agents have sent BSSL fewer than a
17 dozen DMCA takedown notices. Copies of all those DMCA takedown notices received on
18 behalf of AMA from the date of the Settlement Agreement to August 18, 2015 (after AMA
19 attempted to file for arbitration) are attached hereto as Exhibit 1.

20 7. With respect to each of the URLs listed on the takedown notices, BSSL promptly
21 took down the allegedly infringing files upon receipt of the DMCA takedown notice.

22 8. BSSL and its websites are managed entirely from Spain.

23 9. All of BSSL's employees are located in Spain.

1 10. BSSL does not engage, contract for or purchase any servers in the United States
2 to host its websites. BSSL uses LeaseWeb, a hosting company from the Netherlands, for its
3 hosting solutions. As part of these hosting solutions, LeaseWeb provides a Content Delivery
4 Network (CDN) for BSSL's websites. To my understanding, a CDN delivers content to a user
5 from the closest of many file storage locations around the world and LeaseWeb, like all other
6 useful CDNs, has file storage locations around the whole world. For example, if a user from
7 China accesses a file on one of BSSL's websites, LeaseWeb may serve that file from a file
8 storage location it has in China. Therefore, although it is possible that LeaseWeb (without our
9 specific request to do so) may replicate some of the files from BSSL's websites onto a server in
10 the United States so that it can then serve it to a user in the United States, BSSL does not itself
11 host any content in the United States and has not selected or requested that LeaseWeb host any
12 content in the United States.

13 11. In short, to the extent that any of BSSL's websites are served from within the
14 United States, it is not because BSSL chose to have it served from the United States. It is
15 because of the way a CDN works.

16 12. BSSL does not aim its websites at any particular country, but rather its websites
17 are aimed at the entire world of internet users who speak the language used on each particular
18 website.

19 13. Each of BSSL's websites have visitors from countries all around the world.

20 14. BSSL has never had a presence in or significant contacts with the United States.

21 15. BSSL does not have (and has never had) any employees in the United States.

22 16. BSSL does not have (and has never had) a bank account in the United States.

23

1 17. BSSL does not own or lease (and has never owned or leased) real estate in the
2 United States.

3 18. BSSL does not pay (and has never paid) taxes in the United States.

4 19. BSSL does not have (and has never had) an agent for the service of process in the
5 United States.

6 20. BSSL does not have (and has never had) a telephone number in the United States.

7 21. I have never had significant contacts with the United States.

8 22. I do not maintain (and have never maintained) a bank account in the United
9 States.

10 23. I do not pay (and have never paid) taxes in the United States.

11 24. I do not have (and have never had) a telephone number in the United States.

12 25. My visits to the United States have been limited to short vacations and to attend
13 trade conventions.

14 26. I do not direct or control the content that appears on BSSL's websites.

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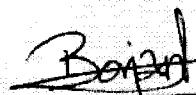
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1 I swear under the pains and penalties of perjury that the foregoing is true and correct.
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4 Dated: December 23, 2015
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Borjan Mera Urrestarazu

URRESTARAZU AFFIDAVIT SUPPORTING DEFENDANTS' MOTION TO DISMISS
CASE NO. 2:15-cv-01673-JCM-(GWF)

Exhibit 1

On May 28, 2015, at 5:36 PM, Marc Randazza <mjr@randazza.com> wrote:

Val,

Pro handled at least 20 copyright cases, including Righthaven v. Hoehn where I represented the defendant in a copyright case, and he bitch-slapped the plaintiff with fees. If your concern is that I've won before him before, then I could understand that reasoning. But saying that Pro lacks the right IP background is quite damaging to your credibility.

Irma Gonzalez is not in Las Vegas, and is a lazy dipshit who I'm not about to agree to.

What I like about Pro is that he became an arbitrator because he could not stand retirement. He works hard and will dig into the issues with the requisite attention. Gonzalez became a judge so that she could become an arbitrator and be lazy.

If we can't agree, which it appears clear that we can't, we will just initiate the arbitration and we can do the old fashioned ranking game.

On Thu, May 28, 2015 at 2:22 PM, Val Gurvits <vgurvits@bostonlawgroup.com> wrote:

Ron,

We agree to arbitrate. However, several days ago in preparation for this arbitration we reviewed JAMS arbitrators in Las Vegas and found that few have the necessary IP background to properly understand this dispute. We propose Hon. Irma E. Gonzalez who obviously has the appropriate background. Her Bio can be found here:

<http://www.jamsadr.com/gonzalez/>

Best,

Val Gurvits

Boston Law Group, PC

825 Beacon Street, Suite 20

Newton Centre, MA 02459

(617) 928-1804 direct

(617) 928-1800 main

(617) 928-1802 fax

vgurvits@bostonlawgroup.com

The contents of this message and any attachments are confidential and intended only for the addressee(s). This message may also be subject to attorney-client privilege. If you received this message in error, please notify Boston Law Group, PC immediately and destroy the original message.

Boston Law Group, PC

tel: 617/928-1800

e-mail: info@bostonlawgroup.com

From: Ron Green [mailto:rdg@randazza.com]
Sent: Thursday, May 28, 2015 5:19 PM
To: Val Gurvits
Cc: Marc John Randazza; Staff One
Subject: AMA Multimedia adv. Serviporno - Arbitration

Val:

Our client informs us that settlement discussions with your client have broken down and has instructed us to begin the arbitration process. To that end, we propose that the parties select the Honorable Philip M. Pro as our arbitrator. Judge Pro recently retired from the Nevada federal bench. He is a fair and smart judge that has heard many intellectual property and Internet disputes. Here is his bio from the JAMS website for your review:

<http://www.jamsadr.com/pro/>

Please let us know whether your client approves Judge Pro as soon as possible. We should also schedule a time to discuss any preliminary matters, such as permitted discovery. If there are any specific issues that you would like to discuss, please let us know.

Ronald D. Green* | Randazza Legal Group
3625 South Town Center Drive | Las Vegas, NV 89135
Tel: [702-420-2001](tel:702-420-2001) | Email: rdg@randazza.com

Firm Offices - Las Vegas | Philadelphia | San Francisco | Miami

* Licensed to practice law in Nevada.

Marc John Randazza, JD, MAMC, LLM* | Randazza Legal Group
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* Licensed to practice law in Arizona, California, Florida, Massachusetts, and Nevada.

Exhibit

2

23/12/2015

JAMS Arbitration, Mediation, and ADR Services | Mediators/Arbitrators | neutrals | Hon. Irma E. Gonzalez (Ret.)

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Hon. Irma E. Gonzalez (Ret.)



General Biography

Specialties

- Arbitration
- Business/Commercial
- Civil Rights
- Class Action/Mass Tort
- Employment
- Environmental
- Federal
- Intellectual Property
- Maritime/Admiralty
- Securities

Locations

- San Diego, California
- Orange, California
- Los Angeles, California
- Santa Monica, California
- Inland Empire, California
- San Francisco, California
- Las Vegas, Nevada

Available to hear cases nationwide.

BIOGRAPHY PRESS EVENTS

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Case Manager

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San Diego, CA 92101
619-237-0801 Phone
619-236-9032 Fax
Email:
labrantes@jamsadr.com

Hon. Irma E. Gonzalez (Ret.) joined JAMS following a judicial career spanning nearly 30 years. She was appointed to the United States District Court for the Southern District of California in 1992, serving as Chief Judge from 2005 to 2012. Prior to her appointment to the federal bench, Judge Gonzalez also worked as an assistant U.S. Attorney in the Criminal Prosecution division for the District of Arizona and in Los Angeles, as well as an attorney in private practice. She later served as a U.S. Magistrate judge and a San Diego County Superior Court judge.

Highly regarded among counsel for her fairness and deep knowledge of legal issues, Judge Gonzalez brings an experienced approach to resolving even the most complex and contentious disputes. Her background makes her an ideal arbitrator, mediator, and special master for cases involving a wide range of issues, including business, class action, employment, intellectual property, and securities matters, among others. Judge Gonzalez is also fluent in Spanish.

Representative Matters

- **Intellectual Property**
 - Experience handling variety of intellectual property matters, including cases involving patent, trademark, and copyright issues
 - Please visit Judge Gonzalez's intellectual property biography for a detailed list of representative matters
- **Securities**
 - Class action brought by investors in mutual funds against seller of systematic investment plans sold primarily to military personnel
 - Lawsuit for securities fraud brought by investors who purchased company's stock
 - Securities and Exchange Commission complaint against defendants alleging they violated securities laws by offering and selling unregistered securities and making false representations
- **Class Action/Mass Tort**
 - Consumer
 - Class action by consumers against manufacturer of defective televisions under California Unfair Competition Law (UCL), False Advertising Law (FAL), Consumer Legal Remedies Act (CLRA), California Song-Beverly Consumer Warranty Act and federal Magnuson-Moss-Warrant Act

23/12/2015

JAMS Arbitration, Mediation, and ADR Services | Mediators/Arbitrators | Neutrals | Hon. Irma E. Gonzalez (Ret.)

- o Class action under CLRA, UCL, and Class Action Fairness Act (CAFA) based upon sale of three of defendant's products
- o Consumers' class action alleging false representations in advertising and labeling of its cereal products, under UCL, CLRA, and CAFA
- o **Wage and Hour**
 - o Bus drivers' class action for violations of California Labor Code and Wage Order 9, UCL, and California Labor Codes §§ 558 and 203 for failing to provide meals and rest periods
 - o Class action brought by mechanic helpers to recover wages on work days for which they did not take meal periods under California Labor Code
 - o Former employees' action for defendants' alleged systematic wage and hour violations under federal and state law
- **Employment**
 - o Action brought by plaintiff under California Fair Employment and Housing Act (FEHA) for unlawful termination on basis of mental disability and failure to accommodate
 - o Employee action alleging violations under Title VII for hostile work environment and discrimination stemming from retaliation for filing EEO complaints
 - o Former employee's suit alleging disability discrimination under Americans with Disabilities Act
 - o Lawsuit brought by employee alleging failure to make reasonable accommodation for her disability under FEHA
- **Business/Commercial**
 - o Breach of contract action brought by plaintiff against defendants concerning purchase and sale of 63 airplane engine fan blades
 - o Class action brought by individuals who enrolled in online business school and alleged fraud, failure to provide services paid for, and various other California Business Code violations
 - o Complaint filed under Employee Retirement Income Security Act (ERISA) for breach of fiduciary duty, negligent misrepresentations, and fraud and deceit under California Civil Code
 - o Former employee's breach of contract action for failure of employer to pay post-termination wage commissions
- **Environmental**
 - o Action brought under the Endangered Species Act (ESA) and Administrative Procedure Act (APA) seeking judgment that Secretary of the Interior failed to perform mandatory, non-discretionary duty under ESA in failing to designate new critical habitat for certain plant species
 - o Action seeking judgment under National Environmental Protection Act and APA attacking presidential permits and federal rights-of-way to build electricity lines within the United States and across the U.S.-Mexico border to connect power plants in Mexico with power grid in Southern California
- **Civil Rights**
 - o Arrestee 42 USC § 1983 action against county and sheriff deputies alleging unlawful seizure and excessive force, as well as state law claims for negligence, battery, and false arrest
 - o Lawsuit brought by plaintiff under 42 USC § 1983 and various state laws against county and deputy sheriff for violating his civil rights that occurred upon execution of search warrant
 - o Lawsuit brought under 42 USC § 1983 against city and various offices for wrongful death, excessive force, failure to properly train, and various state law claims
- **Constitutional Law**
 - o Action alleging sheriff's policy of requiring applicants who apply for carrying concealed weapon license to show good cause violates Second Amendment
 - o Action brought by plaintiffs challenging constitutionality of city's campaign finance laws on First Amendment grounds
 - o First Amendment challenge to constitutionality of city's municipal code that precluded plaintiff from operating adult store

23/12/2015

JAMS Arbitration, Mediation, and ADR Services | Mediators/Arbitrators | Neutrals | Hon. Irma E. Gonzalez (Ret.)

Honors, Memberships, and Professional Activities

- Lifetime Achievement Award, Hispanic National Bar Association, 2013
- Honored at Sixth Annual Judiciary Reception, San Diego La Raza Lawyers Association, 2013
- Joan Dempsey Klein Distinguished Jurist Award, California Women Lawyers, 2011
- Outstanding Jurist Award, San Diego County Bar Association, 2008
- Member, Lawyers Club of San Diego
- Advisory Board, San Diego La Raza Lawyers
- Board of Visitors, University of Arizona James E. Rogers College of Law
- Board of Trustees, California Western School of Law
- Member, California Women Lawyers
- Member, National Association of Women Judges
- Judicial Advisory Board, Association of Business Trial Lawyers of San Diego
- Master, William B. Enright Inn of Court
- Advisory Board, Federal Bar Association, San Diego Chapter
- Co-Chair, Federal Practice Task Force of the American Bar Association Section of Litigation, 2011-2013
- Member, Supreme Court Fellows Program Commission, 2011-present
 - Appointed as chair in 2012
- Chair, Ninth Circuit Judicial Conference, 2010
- President, Ninth Circuit District Judges Association, 2009-2011
- Member, Judicial Conference Committee on Judicial Security, 2008-2013
- Member, Ninth Circuit Judicial Council, 2007-2010
- Member, Ninth Circuit Space and Security Committee, 2006-2013
- Member, Federal Judicial Center Benchbook Committee, 2003-2009
 - Appointed as chair in 2009
- Member, Judicial Conference Committee on the Administration of the Magistrate Judge System, 1998-2005
- Founding Member, Latinas in the Law
- Participant, Children at Risk
- "Enterprising Evaluator," *Daily Journal*, ADR Profile, July 17, 2015

Background and Education

- United States District Court Judge, Southern District of California, 1992-2013
 - Chief, 2005-2012
 - Senior status, 2013
- Judge, San Diego County Superior Court, 1991-1992
- U.S. Magistrate Judge, Southern District of California, 1984-1990
- Associate, Seltzer, Caplar, Wilkins, & McMahon, 1981-1984
- Assistant United States Attorney, Criminal Prosecution Division, District of Arizona and Central District of California, 1975-1981
- Law Clerk, Hon. William C. Frey, United States District Court for the District of Arizona, 1973-1975
- J.D., University of Arizona
- B.A., Stanford University

Exhibit

3

RANDAZZA

LEGAL GROUP

Ronald D. Green
Partner
Licensed in NV

June 26, 2015

Via Email Only
<vgurvits@bostonlawgroup.com>

Val Gurvits
Boston Law Group, P.C.
825 Beacon St., Suite 20
Newton Centre, MA 02459

Re: AMA Multimedia, LLC adv. Borjan Solutions S.L. et al. – Arbitrator Selection

Dear Val:

Since we last spoke, AMA Multimedia, LLC ("AMA") has been researching and vetting potential arbitrators located in the State of Nevada. After a thorough search, we believe that the following 3 potential arbitrators are not only qualified to adjudicate the dispute between AMA and your clients but also show no discernable bias for or against intellectual property owners over alleged infringers. Any thoughts that you have with regard to the following individuals are appreciated.

1. The Honorable Philip Pro: As you know, we have previously proposed Judge Pro as the arbitrator for this matter, and your client rejected him. We ask that you reconsider. Judge Pro served on the Nevada federal bench for nearly 3 decades. In that time, he rightly gained a reputation as one of the smartest and fairest judges to preside over a Nevada court. Your issue with Judge Pro was apparently that he did not have the "necessary IP background to properly understand this dispute." However, that is simply not true. Judge Pro has presided over dozens of intellectual property cases more complex than this and has never shown any favoritism to plaintiffs or defendants. If your objection to Judge Pro is that both Marc and I have appeared before him, please let us know. However, to suggest that he is unqualified is not a well-founded objection.
2. Ara Shirinian: If Judge Pro is unacceptable to your client and you, we also suggest and would be comfortable with Ara Shirinian, whose biography can be found at <arashirinianmediation.com>. Mr. Shirinian has an excellent reputation in Nevada as a fair arbitrator and mediator. Neither Marc nor I have appeared before Mr. Shirinian before. He is willing to work with the parties on the applicable rules that will apply to the dispute and regarding the discovery schedule. By way of full disclosure, I had a short conversation with Mr. Shirinian about this matter earlier this week, but we discussed nothing of substance. I invite you to contact him and have a brief conversation with him before agreeing that he would be an appropriate arbitrator for this matter.

Arbitrator Selection
Page 2 of 2

RANDAZZA
LEGAL GROUP

3. Joseph Bongiovi: Finally, as with Mr. Shirinian, Joe Bongiovi is one of the most respected and utilized arbitrators in the State of Nevada. His website is located at <bongiovi.com>. He has presided over thousands of arbitrations and mediations and is equally respected by plaintiffs' and defendants' counsel in the state. Mr. Bongiovi is knowledgeable and qualified to handle a wide range of matters. I have not spoken with Mr. Bongiovi regarding this matter. However, if you would like to speak with him to get a better idea as to whether he is suitable to preside over this dispute, I would certainly invite you to do so.

It is our hope that the parties can agree upon an acceptable arbitrator quickly so that we might get this matter resolved for both of our clients. Given that the parties' settlement agreement requires that arbitration occur in Nevada, we do not feel that it makes sense to retain an arbitrator located out-of-state. There are several qualified arbitrators in southern Nevada, and it will be more cost-effective for both of our clients to retain someone that already lives here.

Please approve one of these individuals by **Friday, July 3, 2015**. If you have any questions, please feel free to contact me at your convenience.

Sincerely,



Ronald D. Green

Exhibit

4

Fwd: AMA Multimedia, LLC adv. Borjan Solutions S.L. et al. – Arbitrator Selection

Val Gurvits <vgurvits@bostonlawgroup.com>
To: Ron Green <rdg@randazza.com>
Cc: Marc Randazza <mjr@randazza.com>, Matthew Shayefar <matt@bostonlawgroup.com>, Evan Fray-Witzer <Evan@cfwlegal.com>

Sat, Jun 27, 2015 at 9:24 AM

Ron –

We rejected Pro before; we reject him now. We proposed Gonzalez; you rejected her.

A month ago Marc wrote and said you wanted to go the “old fashioned ranking way,” so we invited your client to initiate arbitration, even though we think any claims asserted will be frivolous and subject your client to the attorney’s fee provisions of the agreement.

It’s clear we’re not going to agree on an arbitrator. We don’t even agree that arbitration is warranted, as we believe any filing you make will be in bad faith. File, or don’t file. If you do file and we are forced to respond, we will utilize the ranking system employed by JAMS. Other than that, we’re really not interested in spending more time discussing arbitrators.

Val
Sent from my iPhone

On Jun 27, 2015, at 2:47 AM, Trey Rothell <rlgstaff2@randazza.com> wrote:

Mr. Gurvits:

Please find attached a letter from Mr. Green regarding the selection of an arbitrator in the above-mentioned matter.

Trey Rothell* | Randazza Legal Group
3625 S. Town Center Drive Las Vegas, NV 89135
Tel: 702-420-2001 | Email: rlgstaff2@randazza.com
Firm Offices - Las Vegas | Philadelphia | San Francisco | Miami

* Paralegal; not licensed to practice law.

<2015.06.26 RDG Ltr to Gurvits re Serviporno Arbitrator.pdf>

Exhibit

5

RE: AMA Multimedia, LLC adv. Borjan Solutions S.L. et al. - Arbitrator Selection

Val Gurvits <vgurvits@bostonlawgroup.com>
To: Marc Randazza <mjr@randazza.com>
Cc: Ron Green <rdg@randazza.com>, Matthew Shayefar <matt@bostonlawgroup.com>, Evan Fray-Witzer <Evan@cfwlegal.com>

Sat, Jun 27, 2015 at 9:32 AM

You shouldn't use anyone. But if you choose to file, you are going to have to use a nationally recognized arbitration forum. Uncle Bob's Arbitration and Weddings of Las Vegas won't cut it.

Val
Sent from my iPhone

On Jun 27, 2015, at 7:30 PM, Marc Randazza <mjr@randazza.com> wrote:

We are not going to use JAMS, unless you want to agree to Pro.

On Sat, Jun 27, 2015 at 9:24 AM, Val Gurvits <vgurvits@bostonlawgroup.com> wrote:

Ron –

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Tel: 702-420-2001 | Email: rlgstaff2@randazza.com
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* Paralegal; not licensed to practice law.

<2015.06.26 RDG Ltr to Gurvits re Serviporno Arbitrator.pdf>

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* Licensed to practice law in Arizona, California, Florida, Massachusetts, and Nevada.